

388 Motions to Terminate a Guardianship by Parents or Guardians

(Revised 11/22/19)

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Forms

The Following forms are referenced in this file:

- 07-65 Placement Info and Payment Authorization (CWS/CMSTemplate)
- 04-600 RFA Referral (CWS/CMS Template)
- [JV-180](#) Request to Change Court Order

Policy

When in a child's best interest, SWs will attempt to salvage as many guardianships as possible by providing referrals, services, and convening Child and Family Team (CFT) meetings and/or Facilitated Mappings if needed. The goal is to preserve the placement as moves are disruptive to a child's security and well-being.

When a guardian files a 388 motion because they want to adopt the child or name a successor guardian, the Agency will request that the guardianship remain active and dependency **not be reinstated** until the Resource Family Approval (RFA) is completed. This enables funding to the caregiver to continue without interruption.

The goal is to preserve the placement, as moves are disruptive to a child's security and well-being.

Because guardianships are not permanent and the parents maintain their parental rights, the parents have the right to file a Petition often referred to a 388 Motion stating there has been a change in circumstances so they are now requesting termination of the guardianship and return of the child to their care. The Agency will request that there **not** be any changes in the guardianship or dependency status until an assessment of the parent's ability to care for their child is completed by the guardianship unit.

**Procedure for
failed or
Successor
Guardianships**

If the guardian or parent wants to petition the court to dissolve the guardianship, they can obtain the paperwork for filing a 388 from the regional courts' business office listed below or from the California Courts website at <https://www.courts.ca.gov/>.

Meadow Lark court (858) 634-1600
El Cajon court (619) 456-4238
North County court (760) 201-8600

When the court receives a 388 motion to terminate a guardianship order, the following procedures will be followed.

STEP	WHO	ACTION
1	Guardian/Parent	File a 388 using the JV-180 to request termination of the guardianship. NOTE: If a guardian/parent files a 388, the guardian/parent can file i either in the court that retains jurisdiction over the case or the juvenile court in the county where the guardian and child currently resides. The decision should be based on the best interests of the child.
2	Regional court business office	Forward the paperwork to a judicial officer for consideration. Part of that paperwork is a 388 motion.
3	Judicial officer	Either: <ul style="list-style-type: none">• Deny the guardian's/parent's 388 motion OR <ul style="list-style-type: none">• Set the matter for a hearing in 30 days to decide whether or not to terminate the guardianship.
4	Regional court business office	If the court sets a hearing, fax the 388 motion to the Child Abuse Hotline at (858)569-3587. NOTE: 388 motions that are denied will not be faxed to the Child Abuse Hotline.
5	Hotline	Make the assignment based on the table in the section below titled "Assignment of, and Duties Regarding, Guardianship 388s."

NOTE: For other types of 388s, see Petitions (Motions) - 388.

Assignment of, and Duties, regarding Guardianship 388's

If the 388 motion has been filed by the guardian because they no longer want custody of the child/youth the Court will usually terminate the guardianship and re-instate dependency.

If the guardian files in order to adopt the child or to appoint a successor guardian the Agency will request that the guardianship **not** be terminated until the Resource Family Approval (RFA) is completed so the caregiver can continue to receive funding.

This table identifies Hotline and SW responsibilities depending on the circumstances of the 388:

IF...	THEN THE HOTLINE WILL...	AND
a 388 petition is filed by the guardian and there is a successor guardian named to replace the previous guardian	<ul style="list-style-type: none"> Create a case in CWS/CMS using the intervention reason, "Disrupted Guardianship" and assign Primary to Region and Secondary to the Guardianship Unit PSS Send the hard copy of the paperwork to the Guardianship Unit PSS. 	<ul style="list-style-type: none"> the Guardianship SW will investigate and write an addendum court report in CWS/CMS for the 388 hearing. the Regional SW is responsible for all other case management duties, including: <ul style="list-style-type: none"> making monthly in-person contacts completing the 04-600 RFA referral. Scheduling CFTs Handling visitation and placement issues.
388 petition is filed and there is not a successor guardian named to replace the previous guardian	<ul style="list-style-type: none"> Create a case in CWS/CMS using the intervention reason, "Disrupted Guardianship" and assign Primary to region for CI assignment. 	<p>the Regional CI SW is responsible for:</p> <ul style="list-style-type: none"> the investigation, writing the Addendum Report for court. Making monthly in-person contacts All other case management duties.

**Assignment of,
and Duties,
regarding
Guardianship
388's (cont.)**

If...	then, the Hotline will...	and SW will...
A parent files a 388 asking for termination of the guardianship and return of the child	<p>If the there is an open CWS/CMS case then change the Intervention Reason to "Disrupted Guardianship" and assign secondary to the Guardianship Unit.</p> <ul style="list-style-type: none"> • If the previous CWS/CMS case is closed, then open a new CWS/CMS case: • change the Intervention Reason to "Disrupted Guardianship" assign primary to the Region (based on child's address) and secondary to the Guardianship Unit. 	<p>the Guardianship SW will:</p> <ul style="list-style-type: none"> • investigate the parent's current situation • write an addendum court report in CWS/CMS for the 388 hearing. <p>the Regional CS SW will:</p> <ul style="list-style-type: none"> • Make monthly in-person contacts • Arrange visitation • Schedule any needed CFTs <p>All other case management duties</p>
the Guardian filed a 388 petition and wants to adopt	<ul style="list-style-type: none"> • Verify that the guardianship was established in dependency court • Create a CWS/CMS case if not already active (using "Adoption Services" as the intervention reason) • Assign Primary to regional transfer desk for CS assignment (not adoptions) • Notify Guardian that they will need to obtain an RFA approval which should be completed prior to terminating the guardianship <p>NOTE: In the case alerts box, the Hotline Screener will type: "Assign to CS not Adoptions per PM" at the beginning of the entry then type their name at the end of the entry.</p>	<p>the Regional CS SW will write an Addendum Court report in CWS/CMS and request:</p> <ul style="list-style-type: none"> • that the guardianship continue and that dependency not be reinstated until the RFA process is completed. (this ensures that the guardian will continue to be paid at the current rate) • submit 04-600 RFA referral • make contact visits • submit 07-65 to notify of changes • once the .26 hearing is set, transfer the case to PPAU for notice and assignment

**Assignment of
and Duties,
regarding
Guardianship
388's (cont.)**

If...	then, the Hotline will...	and SW will...
A 388 was filed and the Court reinstated dependency prior to notifying the Hotline	<ul style="list-style-type: none">• If there is not an open case (e.g. money only or voluntary case) then create a case and assign to the appropriate regional transfer desk for CS assignment.• if there is already an open case (e.g., money only or voluntary case), create and assign the referral to regional transfer desk for CI assignment with secondary assignment to the active CS worker.	<ul style="list-style-type: none">• the Regional CI or CS SW is responsible for the investigation, court reports in CWS/CMS (detention, juris/dispo, etc.) and case management duties.• Make a RFA referral if the child is residing in a home which is does not have a RFA approval.

NOTE: For more information, the SW will refer to Petitions (Motions) - 388 in the PM.

**WIC 300 petition
to terminate on
guardianship
cases**

If a §300 petition is filed, in addition to following the normal procedures, the SW must address in the Detention Hearing Report the issues of termination of guardianship versus providing services to the guardian and keeping the guardianship intact.

**Alignment with
SET**

This policy supports the following SET Values:

- [Value 1](#): **Relationships with Children, Youth, and Families Are the Foundation**, by partnering with families to identify family support systems
- [Value 2](#): **Collaborative Partnerships with Kinship and Resource Families**, by offering supportive services for resource families to maintain placements
- [Value 3](#): **Helping Children and Youth Achieve Their Full Potential and Develop Lifelong Relationships**, by prioritizing child safety and permanence
- [Value 5](#): **A Strong Working Relationship with the Legal System**, by collaborating with legal partners with a primarily focus on the child's best interests and right to permanence.